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## *COMMONWEALTH of VIRGINIA*

### *DEPARTMENT OF ENVIRONMENTAL QUALITY*

#### VALLEY REGIONAL OFFICE

Douglas W. Domenech  
Secretary of Natural Resources

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David K. Paylor  
Director

Amy Thatcher Owens  
Regional Director

**STATE AIR POLLUTION CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
TREX COMPANY, INC.  
FOR  
TREX COMPANY – WINCHESTER MANUFACTURING SITE  
Registration No. 81164**

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Trex Company, Inc., regarding the Trex Company – Winchester Manufacturing Site, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permits and regulations.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

5. "Facility" means the Trex Company, Inc. – Winchester Manufacturing Site, located at 3229 Shawnee Avenue in Frederick County, Virginia which operates a wood and polymer composite lumber manufacturing facility.
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
7. "O&M" means operations and maintenance.
8. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
9. "2007 Permit" means the Minor New Source Review permit to install and operate a 1750 kW diesel engine generator, which was issued under the Virginia Air Pollution Control Law and the Regulations to Trex on December 17, 2007.
10. "2008 Order" means the Consent Order, dated April 24, 2008, between Trex and DEQ to resolve certain violations noted in a June 22, 2007, Notice of Violation, separate from the violations resolved by this Order.
11. "2009 Permit" means the Minor New Source Review permit to modify and operate a wood/polymer composite lumber manufacturing facility, which was issued under the Virginia Air Pollution Control Law and the Regulations to Trex on May 6, 2009.
12. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.
13. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
14. "Trex" or "Trex Company" means Trex Company, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Trex Company, Inc. is a "person" within the meaning of Va. Code § 10.1-1300
15. "Va. Code" means the Code of Virginia (1950), as amended.
16. "VAC" means the Virginia Administrative Code.
17. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.
18. "VEE" means a Visible Emissions Evaluation, as determined by EPA Method 9 (*see* 40 CFR 60, Appendix A).
19. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.

**SECTION C: Findings of Fact and Conclusions of Law**

1. Trex Company, Inc. owns and operates the Facility in Frederick County, Virginia. The Facility produces a composite lumber manufactured from wood and polymer components designed for use in decking, railing, fencing and trim.
2. The Facility is the subject of the 2007 Permit which allows the installation and operation of a diesel engine generator and the 2009 Permit to modify and operate a wood/polymer composite lumber manufacturing plant.
3. Currently, Trex is subject to the conditions of the 2008 Order, which was issued to resolve violations, unrelated to this enforcement action, noted in a June 22, 2007 NOV. The 2008 Order requires Trex to complete an Environmental Management System (EMS) by July 21, 2010.

**Visible Emission Evaluation Violation**

4. On August 26, 2008, DEQ staff conducted a Full Compliance Evaluation of the Facility, for compliance with the requirements of the Virginia Air Pollution Control Law, the 2007 Permit, and the Regulations. Based on the inspection and follow-up information, Department staff made the following observation:
  - a. The diesel engine generator (EG) has not been operated since the issuance of the 2007 permit and therefore the applicable permit conditions were not reviewed.
5. On December 2, 2008, a Trex representative notified DEQ staff that the EG had not yet been operated and therefore the Facility had missed the 180 day requirement outlined in Condition 10 of the 2007 Permit.
6. On December 5, 2008, DEQ staff conducted a Partial Compliance Evaluation, of the Facility record for compliance with the requirements of the Virginia Air Pollution Control Law, the 2007 Permit, and the Regulations. Based on the inspection and follow-up information, Department staff made the following observation: A Visible Emissions Evaluation (VEE) has not been performed for the diesel engine generator.
7. Condition 10 of the 2007 Permit states:

“Visible Emissions Evaluation - Visible Emission Evaluations (VEE) in accordance with 40 CFR Part 60, Appendix A, Method 9, shall be conducted on the diesel engine generator (Ref: EG). Each test shall consist of 10 sets of 24 consecutive observations (at 15 second intervals) to yield a six-minute average. The details of the tests are to be arranged with the Director, Valley Region. The evaluation shall be performed and demonstrate compliance within 60 days after achieving the maximum production rate at which the facility will be operated but in no event later than 180 days after permit issuance. One copy of the test results shall be submitted to the Director, Valley Region, within 60 days after test completion and shall conform to the test report format enclosed with this permit. (9 VAC 5-50-30 and 9 VAC 5-80-1200)”

8. On December 12, 2008, based on the inspection and follow-up information, the DEQ issued a Warning Letter to Trex for the violations described in paragraphs C6 and C7 above.
9. On December 19, 2008, Trex responded to the Warning Letter expressing its confusion with the permit language and requested that DEQ grant an extension for the required performance of the VEE to March or April of 2009. DEQ did not grant this request, nor did Trex perform the VEE on the diesel generator during the requested timeframe.
10. On August 20, 2009, a VEE was performed on the diesel engine generator.
11. On September 3, 2009, DEQ staff conducted a Partial Compliance Evaluation, of the VEE Report submitted by the Facility on August 28, 2009 for compliance with the requirements of the Virginia Air Pollution Control Law, the 2007 Permit, and the Regulations. Based on the inspection and follow-up information, Department staff made the following observation: The VEE for the EG as per Condition 10 of the 2007 Permit has been performed and the results show compliance with the opacity standard. The VEE was conducted 460 days late.

Formaldehyde emission limit:

12. On August 12, 2009, DEQ staff conducted a Partial Compliance Evaluation by reviewing the stack test results for the steam screw and mixer/die face exhausts submitted by the Facility on June 5, 2009 for compliance with the requirements of the Virginia Air Pollution Control Law, the 2009 Permit, and the Regulations. Based on the inspection and follow-up information, Department staff made the following observation: The stack test report indicated a formaldehyde short-term emission result of 0.0827 lbs/hr on Line 205 mixer/die face.

13. Condition 105 of the 2009 Permit states:

Short-term Emission Limits: Composite Product Lines (Mixer/Die Face) – Emissions from the operation of each of mixer/die shall not exceed the limits specified below:

	Composite Product Lines L201-205, L208-L209 and L211	Composite Product Lines L210 and L212-L215
Formaldehyde	0.041 lbs/hr	0.047 lbs/hr

Hourly formaldehyde emissions shall be calculated monthly as an hourly average (monthly formaldehyde emissions divided by operating hours). (9 VAC 5-50-260, 9 VAC 5-60-320 and 9 VAC 5-80-1180)

14. On September 15, 2009, based on the inspection and follow-up information, the Department issued Notice of Violation No. AVRO7204 to Trex for the alleged violations described in paragraphs C(4) through C(13), above.
15. On September 22, 2009, Trex submitted a written response to the NOV, requesting a meeting to discuss the noted violations.

16. On October 20, 2009, Department staff met with representatives of Trex to discuss the violations, including Trex's written response, and potential remedies for resolution and compliance.
17. On January 20, 2010, DEQ staff received a copy of the stack test summary report for stack tests performed evaluating formaldehyde emissions on November 24, 2009.
18. Based on the results of the December 5, 2008, August 12, 2009 and September 3, 2009 compliance evaluations, the October 20, 2009 meeting, and submitted documentation, the Board concludes that Trex has violated Condition 10 of the 2007 Permit and Condition 105 of the 2009 Permit, as described in paragraphs C(4) through C(13), above.
19. In order for Trex to complete its return to compliance, DEQ staff and representatives of Trex have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Trex, and Trex agrees to:

1. Perform the actions described in Appendix A of this Order.
2. Pay a civil charge of \$9,919.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Trex shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Trex for good cause shown by Trex, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any

action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, Trex admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Trex consents to venue in the Circuit Court of Frederick County for any civil action taken to enforce the terms of this Order.
5. Trex declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Trex to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Trex shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Trex shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Trex shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the Trex intends to assert

will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Trex. Nevertheless, Trex agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. Trex petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Trex.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Trex from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Trex and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Trex certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Trex to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Trex.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Trex voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 19<sup>th</sup> day of April, 2010.

Amy T Owens  
Amy Thatcher Owens, Regional Director  
Department of Environmental Quality

Trex Company, Inc. voluntarily agrees to the issuance of this Order.

Date: 4/16/10 By: Wesley Reid, Winchester Site Manager  
(Person) (Title)  
Trex Company, Inc.

Commonwealth of Virginia

City/County of WINCHESTER/FREDERICK

The foregoing document was signed and acknowledged before me this 16<sup>TH</sup> day of  
APRIL, 2010, by WESLEY REID who is  
WINCHESTER SITE MANAGER of Trex Company, Inc., on behalf of the corporation.

Kristy D. Steele  
Notary Public

7267740  
Registration No.

My commission expires: June 30, 2013

Notary seal:





## **APPENDIX A SCHEDULE OF COMPLIANCE**

### **1. Permit Required to Construct or Operate**

Trex shall not construct or operate a facility that requires a permit under 9 VAC 5-80-1120(A) without first obtaining such a permit.

- a. By April 16, 2010, Trex shall submit to DEQ, an Air Permit Application (Form 7), to reflect the revised operational processes and associated equipment at the Facility. The Form 7 shall include language detailing operating parameters, production scenarios, Material Safety Data Sheets (MSDSs) and any other information related to air emissions at the Facility. Additionally, it shall include the following requests:
  - i) to revise hourly and annual formaldehyde emission limit for Building #1 based upon recent stack testing results;
  - ii) the removal of production line L208 in Building #1; and,
  - iii) an air dispersion modeling protocol for formaldehyde to demonstrate compliance with the hourly and annual Significant Ambient Air Concentrations (SAAC) for formaldehyde.
- b. Within 90 days of the effective date of this Order, Trex shall supply sufficient information needed for the Department to evaluate the application and issue a permit if required, including the results of hourly and annual modeling analysis; protocols for stack testing; and results of any stack pre-tests performed.
- c. Trex shall keep records at the Facility sufficient to calculate monthly and annual emissions. Records shall also include fuel usage, production values, maintenance logs, and operator training.
- d. If Trex is unable to provide information requested in this Appendix, it shall submit documentation demonstrating that reasonable progress is being made toward meeting the request within four business days of discovery. This documentation shall include an explanation of the delay(s) and the expected date that the information will be submitted to the DEQ.
- e. Within 30 days of DEQ notification of an approved dispersion modeling protocol, Trex shall submit dispersion modeling results for formaldehyde to demonstrate compliance with the formaldehyde hourly and annual SAAC. For the modeling analysis, Trex shall use formaldehyde emission rates derived from the most recent test results. The modeling report shall contain a table listing each emission unit included in the modeling analysis, along with its corresponding stack ID, emission rate, stack parameters, and UTM coordinates.

2. **Certification of Documents and Reports**

In accordance with 9 VAC 5-20-230(A), in all documents or reports submitted to DEQ pursuant to this Consent Order, Trex, shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

3. **DEQ Contact**

Unless otherwise specified in this Order, Trex shall submit all requirements of Appendix A of this Order to:

**David Robinett**  
**Enforcement Specialist**  
**VA DEQ –Valley Regional Office**  
**PO Box 3000**  
**Harrisonburg, VA 22801**  
**540-574-7862**  
**540-574-7878**  
**david.robinett@deq.virginia.com**